STATUTE OF LIMITATIONS—NEW ACTION WHERE FORMER FAILS NOT ON ITS MERITS.—By Virginia Code, sec. 2934 (amended by Acts 1897-8, p. 252), provision is made for preserving a cause of action against the bar of the statute of limitations, where a former action brought in due time, fails from various causes mentioned, and not on the merits.

A statute of similar though not identical import, exists in Ohio, the practical effect of which is to declare that wherever an action brought in due time fails otherwise than on the merits, the action may be renewed within one year, regardless of the statute of limitations.

In *Pittsburg etc. R. Co.* v. *Bemis*, 59 N. E. 745, the Supreme Court of Ohio was called upon to decide whether an action brought in a Federal court, and subsequently dismissed for want of jurisdiction, came within the protection of the statute in question—the contention being that an action in a court which is without jurisdiction is not a judicial proceeding, and hence no action at all. And this view prevailed in the lower court. It was on appeal, however, *Held*, That the previous proceeding in the Federal court was an action within the purview of the statute.

Similar statutes exist in many of the States, and being of a remedial character, the tendency is to give them liberal construction. See *Smith* v. *McNeal*, 109 U. S. 426; *Woods* v. *Houghton*, 1 Gray, 580; *Caldwell* v. *Harding* (U. S. C. C. Mass.), Fed. Cas. No. 2302, 1 Low. 326; *Young* v. *Davis*, 30 Ala. 213. In *Sweet* v. *Light Co.*, 97 Tenn. 252, 36 S. W. 1090, the statute received a less liberal construction, and an action brought in a court without jurisdiction was held not to bring the plaintiff within the protection of the statute.

In *Dawes* v. *New York etc. R. Co.*, 96 Va. 733, 5 Va. Law Reg. 23, it was held that the term "action" in the Virginia statute, as it appears in the Code, did not include a "suit" in equity. But the amendment of 1897-8 (p. 252), seems to have been drawn for the purpose of extending the application of the statute to suits in equity. Indeed, it is expressly applicable to all cases where the proceeding is first brought "in the wrong forum." That such is the effect is clear from the language of the amendment, and it is so stated *obiter* in Judge Riely's opinion in the case last cited.

UNIVERSITY PROFESSORS—REMOVAL—NOTICE.—The opinions of the judges of the Supreme Court of West Virginia, in the case of *Hartigan* v. *Board of Regents of West Virginia University*, 38 S. E. 698, portray a singular and deplorable condition of affairs in West Virginia. They exhibit to public gaze the quarrels of the Regents of the State University among themselves over the removal of a professor—the removed professor suing for reinstatement on the ground that he was entitled to notice and an opportunity to be heard before such action could lawfully be taken—and the judges of the Supreme Court dividing and taking sides in the quarrel, in most unjudicial fashion, and evincing intense ill feeling not only toward the one or the other of the parties, but toward each other.

Three of the judges held the professor not entitled to notice, under a statute authorizing removal only "for good cause," while a fourth entered a violent dissent, in which he metaphorically damned the entire opposition—the Regents—the president of the University at whose request the removal was alleged to have been made—and especially his colleagues on the bench, whom he charges with having